Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	
A National Broadband Plan for our Future	)	GN Docket No. 09-51

To: The Commission

COMMENTS OF THE AMERICAN PREPAID PHONECALL ASSOCIATION

Gene Retske
Executive Director
AMERICAN PREPAID PHONECALL ASSOCIATION
1455 Pennsylvania Ave, NW, Suite 400
Washington, DC 20004
Telephone: (202) 370-7600
Fax: (202) 370-7610

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TABLE OF CONTENTS

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	)	
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The American PrePaid Phonecall Association ("APPPA") submits these comments in response to the Commission's Further Notice of Proposed Rulemaking regarding reform of the universal service fund ("USF") contribution mechanism.[1]

APPPA was founded January 12, 2012, and its members control over half of the prepaid long distance calling card and telephone calling market in the United States.[2] Its mission is to promote high value prepaid telephone services to consumers; protect the industry's interests, good name and the public trust; promote best practices; and provide a unified industry voice.

The prepaid long distance industry today primarily serves vulnerable populations – especially low income populations seeking affordable ways to call their loved ones abroad, and consumers who do not subscribe to local landline or wireless service and therefore lack access to the domestic long distance service generally bundled with it.

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[1] *Universal Service Contribution Methodology, A National Broadband Plan for Our Future*, WC Docket No. 06-122, GN Docket No. 09-51, Further Notice of Proposed Rulemaking, FCC 12-46 (rel. April 30, 2012) ("FNPRM").

[2] For more information about APPPA, visit www.apppa.us.

The prepaid long distance marketplace is also in the midst of a fundamental technological shift. Historically, prepaid long distance services have been sold via hard cards that provide an access number and a PIN for placing calls (or web-based offerings following the same model). Technology and the Internet have enabled a wide variety of different methods for accessing and distributing services. This diversity of access and distribution methods makes the creation of a simple, one-size-fits-all model for calculating and collecting USF contributions difficult and cumbersome to administer.

APPPA believes the current contribution methodology is not working for the prepaid long distance industry, so we offer these comments to assist the Commission in designing a successor mechanism that performs more equitably for the entire communications industry.

I. PREPAID CARD AND CALLING PROVIDERS FACE HEIGHTENED USF CONTRIBUTION CHALLENGES

The prepaid long distance industry faces heightened challenges in connection with the assessment of USF contributions. First, prepaid cards and other prepaid calling products are generally sold through distribution chains that are (1) often lengthy and complex, and (2) involve distributors and retailers not otherwise involved in the communications industry (including numerous small, family-owned convenience stores). Thus, we, as prepaid phone call providers, are largely removed from the retail aspects of the sale of our service, and face challenges under the current end-user revenue-based system with identifying and contributing based on the prices actually paid by end user consumers.

Second, prepaid card and phone call providers deal with large numbers of long distance wholesalers, many of whom are resellers themselves. Because prepaid calling providers' principal product is retail long distance service, we must ensure we are able to offer the most competitive long distance rates. This can only be achieved by dealing with a wide range of suppliers, including many resellers. As a result, the current reseller certification process creates overwhelming administrative burdens for us.[3]

Third, the margin on prepaid long distance calling products for service providers is extremely narrow. Thus, even minor inequities in the contribution rules can have a significant impact on our bottom lines and, more importantly, result in higher consumer prices.

The recommendations in these comments are designed to help the Commission design a contribution methodology that addresses these problems and provides for fair and reasonable USF assessment from all sectors of the communications marketplace. APPPA urges the Commission to bear in mind these particular challenges facing prepaid long distance providers as it reforms the USF contribution mechanism.

II. CONSUMER FAIRNESS SHOULD BE A PRIMARY CONCERN IN ANY SOLUTION

The end purchasers of prepaid phonecall products will ultimately be impacted by any changes in USF contribution methodology. Any scheme that increases the cost to these vulnerable consumers will have the effect of limiting their access to services or unfairly burdening them. Therefore, APPPA urges the Commission to carefully consider the consumer impact of any method of calculating and collecting USF contributions.

Second, it is important to note that the vast majority of prepaid phonecall consumers are low income and use these products to call friends and family outside the USA. In general, international calling rates are much higher per minute than domestic US calling. Any scheme that increases the cost to the consumer for USF will have an adverse impact on their access to these international calls.

[3] *See, e.g.,* Petition for Reconsideration of Network Enhanced Telecom, LLP, WC Docket No. 06-122 (filed Nov. 18, 2010) at 11-16 (describing how the current reseller certification guidelines impose double-assessment burdens on reseller chains involving multiple carriers).

Finally, APPPA believes that ultimately USF charges will be passed onto consumers and should be fair to all consumers and not favor one group of consumers over another, or disadvantage any particular group of consumers. All consumers should have an equal ability to access and utilize services without discrimination or favoritism.

III. ANY REVENUES-BASED SYSTEM SHOULD NOT ASSESS INTERNATIONAL REVENUES AND MUST ASSESS PREPAID CARD REVENUE FAIRLY

If the Commission decides to assess USF contributions using a revenue-based system, APPPA opposes the expansion of assessments to include international revenues, and urges the Commission to assess prepaid calling card revenues in an equitable and workable manner to avoid unfairly burdening the consumers who can least afford it.

A. Expanding Assessment of International Revenues Would Unfairly Burden Vulnerable Consumers and the Carriers That Serve Them

The Commission should not eliminate the "international only" or the "limited international revenues" ("LIRE") exemptions.[4] Eliminating these exemptions, and imposing significantly greater contribution burdens on providers of international long distance service, would disproportionally and unfairly burden the low income consumers of already costly international long distance.

International long distance service prices are high, but the actual wholesale cost per minute averages over ten times higher than the cost of interstate service due to high termination charges imposed by foreign regulators, market effects and carriers. For many high-volume destinations, the wholesale cost of international long distance service is between 20 and 30 times the cost of interstate long distance service. For example, wholesale costs are approximately $0.20 to $0.30 per minute to destinations like the Philippines (cellular), El Salvador, and

[4] FNPRM at ¶ 200.

Ethiopia. Increased contribution burdens will be compounded if USF contribution costs are included in the wholesale cost of prepaid cards that are then marked up through retail distribution channels, further increasing the cost to the consumer. It would be inequitable and discriminatory under the statute[5] to impose a significantly higher contribution burden on low income consumers in the U.S. simply because of high termination rates set by a foreign regulator or carrier.

Imposing additional contribution costs on the international prepaid calling card market also would run counter to the Commission's desire for a competitively neutral system, because it would simply encourage the proliferation of rogue, non-contributing providers of black-market prepaid international long distance services (both hard cards and portals). This concern is not merely theoretical. The burdensome regulatory environment for retail prepaid calling cards in Illinois has resulted in a widespread trend toward retail stores displaying regulatory-compliant cards on the shelves while selling non-compliant products from under the counter, thwarting the intent of the regulatory scheme.

In the consumer long distance markets that the APPPA members operate, the LIRE does not create any competitive advantages for some providers over others.[6] With the proliferation of landline and mobile plans with included domestic long distance, the prepaid long distance card and calling market has shifted overwhelmingly to international service. For example, one APPPA member found interstate minutes constituted only 2% out of a random sample of 300 million long distance minutes, and represented only 1% of the revenue for the minutes in the sample. In light of this change in the market, the Fifth Circuit's primary equity concern – that

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[5] 47 U.S.C. § 254(d).

[6] FNPRM at ¶ 206.

international providers may be required to make USF contributions that exceed their interstate revenues – is actually heightened.[7]

If the Commission wishes to ensure that the LIRE does not result in competitive disparities among providers of interstate and international service, the best solution is simply to exempt international revenues from all contribution obligations for all providers. At minimum, such an exemption should be available to all providers of international service in the individual retail (residential, as opposed to business) market. This approach would be superior to an arbitrary system like requiring LIRE-qualifying entities to contribute based on an amount of their international revenues equal to their interstate revenues.[8] To the extent the LIRE is retained and modified, it should always guard against the possibility that international providers' contributions will exceed their interstate revenue. The FNPRM's proposal based on arbitrary factors would not meet this criterion.[9]

B. Prepaid Card Providers Should Contribute Based on Their Own Revenues Only

APPPA supports the Commission's proposal to require prepaid card providers to contribute only based on the revenues they receive from the entities (distributors or retailers) to whom they sell prepaid cards.[10]

As the FNPRM suggests, the current "face value" reporting requirement is unworkable given that "many cards do not have a face value, and contributing providers often do not know

[7] *See* FNPRM at ¶ 201.

[8] *Id.* at ¶ 206.

[9] *Id.* at ¶ 205.

[10] *Id.* at ¶185.

and have no control over the ultimate retail price of a calling card."[11] The prepaid calling market is unique in the telecommunication industry because of its extensive distribution through small convenience stores and other retailers. This distribution method adds additional non-telecom cost overhead because of the multiple distribution levels required to get products to the consumer. Under the current face-value based methodology, prepaid long distance providers are disproportionally and unfairly burdened with contributing to USF and other funds on the added cost of distribution. The impact of these lengthier distribution chains is variable depending on the final distribution method utilized, but the impact on average ranges between 15%-30% in additional cost compared to more traditional distribution methods utilized by other telecommunication providers.

Requiring filers to contribute based on their own revenue from the entities to whom they sell products directly is superior to requiring face-value contribution and adopting a "safe harbor" mark-up for revenues from distributors, such as 50%, or other bright-line rules.[12] Since the discounts are variable we do not believe that any "safe harbor" mark-up would be fair.

[11] FNPRM at ¶ 184.

[12] *Id.* at ¶ 186-187.

Conclusion

The APPPA urges the Commission to consider the unique concerns of prepaid card and other prepaid long distance providers in formulating a revised USF contribution mechanism.

Respectfully submitted,

AMERICAN PREPAID PHONECALL ASSOCIATION

By: _______*/s/ Gene Retske*_____________

Gene Retske
Executive Director
1455 Pennsylvania Ave., NW, Suite 400
Washington, DC 20004
Telephone: (202) 370-7600
Fax: (202) 370-7610

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